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10/601,040	06/20/2003	Wayne Jacob Gregoire		7169

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EXAMINER

SELF, SHELLEY M

ART UNIT	PAPER NUMBER
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3725

DATE MAILED: 09/22/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/601,040

Applicant(s)

GREGOIRE, WAYNE JACOB

Examiner

Shelley Self

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 14 July 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 4 and 11-15 is/are pending in the application.
- 4a) Of the above claim(s) 1-3, 5-10 and 16 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 4 and 11-15 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 20 June 2003 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- ☒ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____
- ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- ☐ Notice of Informal Patent Application (PTO-152)
- ☐ Other: _____

DETAILED ACTION

Election/Restrictions

Applicant's election without traverse of the invention of Group III (clms. 4 and 11-15) in the reply filed on July 14, 2005 is acknowledged.

Applicants request to cancel claims 1-3, 5-10 and 16 filed in the election/restriction response filed July 14, 2005 is hereby acknowledged. Accordingly, claims 1-3, 5-10 and 16 have been cancelled.

Drawings

The drawings are objected to as failing to comply with 37 CFR 1.84(p)(5) because they include the following reference character(s) not mentioned in the description: *106* (figs. 30, 31), *24-24* (figs. 18, 20, 29), *25-25* (figs. 18, 20, 29), *26-26* (fig. 29), *27-27* (fig. 29), *28-28* (figs. 18, 20, 29).

With regard to figure 3, reference character *64'* does not have a lead line referring to any particular element of the drawing. Correction is required.

The drawings are objected to as failing to comply with 37 CFR 1.84(p)(5) because they do not include the following reference sign(s) mentioned in the description: *86* & *110*.

The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the *bracket* (clm. 11), *measurement means* (clm. 14) and *extruded forms means* (clm. 15) must be shown or the feature(s) canceled from the claim(s). No new matter should be entered.

The drawings are objected to as failing to comply with 37 CFR 1.84(p)(4) because reference character “100” has been used to designate both *holes* (pg. 9, line 23) and *block* (pg. 9, line 24). Additionally, the nomenclature on pages 20-23 of the specification is silent to reference characters 100 and 100’.

Corrected drawing sheets in compliance with 37 CFR 1.121(d), or amendment to the specification to add the reference character(s) in the description in compliance with 37 CFR 1.121(b) are required in reply to Office action to avoid abandonment of the application. Any amended replacement-drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as “amended.” If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either “Replacement Sheet” or “New Sheet” pursuant to 37 CFR 1.121(d). If the examiner does not accept the changes, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

All of the drawings should be reviewed to ensure proper illustration of all elements and correlation to reference characters between the drawings and the specification.

Specification

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Applicant is reminded of the proper language and format for an abstract of the disclosure.

The abstract should be in narrative form and generally limited to a single paragraph on a separate sheet within the range of 50 to 150 words. It is important that the abstract not exceed 150 words in length since the space provided for the abstract on the computer tape used by the printer is limited. The form and legal phraseology often used in patent claims, such as "means" and "said," should be avoided. The abstract should describe the disclosure sufficiently to assist readers in deciding whether there is a need for consulting the full patent text for details.

The language should be clear and concise and should not repeat information given in the title. It should avoid using phrases which can be implied, such as, "The disclosure concerns," "The disclosure defined by this invention," "The disclosure describes," etc.

The Abstract exceeds 150 words. Appropriate correction is required.

The disclosure is objected to because of the following informalities:

The drawing pages are not numbered. Examiner suggests, 1/17, 2/17, 3/17, 4/17...17/17.

Pg. 4, line 16, "*pre cut*" should be —pre-cut—

Pg. 7, line 21 and pg. 14, line 28 it is not clear as to whether or not U.S. Pat. No. 5,018,562 has been incorporated by reference.

Pg. 16, line 21, *eraceable* should be —erasable—

Clm. 4, line 3 and claim 15, line 5 "a adjustable" should be —an adjustable—

Clm. 13, line 2 and claim 15, lines 2, 3 "a indexing" should be —an indexing—

Appropriate correction is required.

Claim Objections

Claims 4 and 11-13 are objected to as being of improper form. Each claim should be written in a single sentence format, i.e., begin with a capital letter and end with a period. Claims 4 and 11-13 appear to be written in more than one sentence form as denoted by the presence of more than one period per claim. Appropriate correction is required.

Claim Rejections - 35 USC § 112

The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

Claims 11 and 14 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the enablement requirement. The claim(s) contains subject matter, which was not described in the specification in such a way as to enable one skilled in the art to which it pertains, or with which it is most nearly connected, to make and/or use the invention. Neither the specification nor the drawings provide support for a “bracket interlocking to a Jointech Clincher”, in fact the specification merely states, “*the Jointech Clincher 118 is attached to ...plate, in attachment to the wood shaper 68...*” (Specification pg. 15, lines 22-23). There is no mention or illustration of a bracket or how a bracket relates to the Jointech Clincher. Additionally regarding claim 11, a Jointech Clincher does not appear to be a trademark name and the specification refers to it only as Jointech Clincher Fence Machine, US Patent 5,018,562, because it is unclear whether or not the US. Patent 5,018,562 has been incorporated by reference; the specification and drawings fail to clearly provide support for what is a Jointech Clincher.

With regard to claim 14, neither the specification nor the drawings provide support for “*measurement means of calibrating the cut dimension of a work piece*”. Clarification is required.

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter, which the applicant regards as his invention.

Claims 4 and 11-15 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. In general the claims are awkward, aggregative in nature (i.e., catalogue recitation/listing) and unclear, rendering a clear understanding of the invention and the scope of the protection desired difficult. For example, with regard to claim 4, the lack of clear mechanical cooperation between the elements renders the claim indefinite. For example, it is unclear how the indexing system, plurality of adjustable connections and means for normal cutting interrelate. Likewise, claims 11-15 merely lists the components of the claimed invention without any positive recitation of mechanical or critical interrelationships or cooperative structure between the elements. Examiner suggests language such as --an indexing means coupled to...for precision...-- Appropriate correction is required.

With regard to claims 11-15, the claims fail to positively further limit the parent claim. For example, with regard to claim 11 it is unclear how the bracket interlocking to a Jointech Clincher relates to the positively recited elements of the parent claim (i.e., indexing system, adjustable connections, means for normal cutting). Is this bracket attached/coupled to any of the positively recited elements or a component of any of the positively recited elements of the parent claim 4 or is the bracket an additional element?

With regard to claim 11, it is unclear if the adjustable fence is comprised of a Jointech Clincher or if the Jointech Clincher is mounted to the adjustable fence. Clarification is required.

With regard to claim 12, it is unclear what is meant by "in either direction" does either direction refer to the X, Y or Z direction?

Additionally with regard to claim 12, "holding means" is recited twice; it is unclear if the holding means recited in line 4 is the same as that recited in line 3 or if the two are separate. If separate, Examiner suggest, --a first means for holding---, --a second means for holding--.

With regard to claim 13, it is unclear if the "indexing channel system" is the same as the "indexing system" recited in the parent claim 4 or if the two are separate limitations.

Clarification is required. Similarly regarding claim 15 it is unclear if the "indexing channel extrusion" and "indexing block" are the same as the "indexing system" recited in the parent claim 4 or if they are separate limitations or components of the indexing system. If separate limitations how do the elements interrelate? Clarification is required.

Further regarding claim 13, the wood shaper, router table and table saw have not been positively recited within the claim body, i.e., how do they relate to the back fence? Clarification is required.

All of the claims should be reviewed for clarity, indefinite concerns and proper recitation of critical mechanical interrelationships.

Regarding claims 12, 14 and 15, the word "means" is preceded by the word(s) "holding" (clm. 12), "adjustment" (clm. 12), "measurement" (clm. 14) and "extruded forms" (clm. 15)" in an attempt to use a "means" clause to recite a claim element as a means for performing a specified function. However, since no function is specified by the word(s) preceding "means," it is impossible to determine the equivalents of the element, as required by 35 U.S.C. 112, sixth paragraph. See *Ex parte Klumb*, 159 USPQ 694 (Bd. App. 1967). It is unclear whether or not Applicant is invoking 35 U.S.C. 112 6th paragraph. Examiner suggests, --means for holding--, --means for adjusting--, --means for measuring--, --means for extruding—

An examination of this application reveals that Applicant is unfamiliar with patent prosecution procedure. While an inventor may prosecute the application, lack of skill in this field usually acts as a liability in affording the maximum protection for the invention disclosed. Applicant is advised to secure the services of a registered patent attorney or agent to prosecute the application, since the value of a patent is largely dependent upon skilled preparation and prosecution. The Office cannot aid in selection an Attorney or Agent.

Applicant is advised of the availability of the publication, "Attorneys and Agents Registered to Practice Before the U.S. Patent and Trademark Office." This publication is for sale by the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claim 4 as best as can be understood is rejected under 35 U.S.C. 102(b) as being anticipated by Goodell (4,481,846). Goodell discloses a adjustable back fence (10) for work piece milling on a wood shaper, router table and table saw comprising an adjustable horizontal member (25) attached to an indexing system (fig. 2), a plurality of adjustable connections (19, 20, 21, 23), an indexing system (fig. 2), mean for cutting (B).

Examiner notes the adjustable connections serve to index, i.e., regulate the position of the adjustable horizontal member (25), thus resulting in an indexing system.

(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

The changes made to 35 U.S.C. 102(e) by the American Inventors Protection Act of 1999 (AIPA) and the Intellectual Property and High Technology Technical Amendments Act of 2002 do not apply when the reference is a U.S. patent resulting directly or indirectly from an international application filed before November 29, 2000. Therefore, the prior art date of the reference is determined under 35 U.S.C. 102(e) prior to the amendment by the AIPA (pre-AIPA 35 U.S.C. 102(e)).

Claims 4, 11-13 and 15 as best as can be understood are rejected under 35 U.S.C. 102(e) as being anticipated by Jukoff et al. (6,619,347). With regard to claim 4, Jukoff discloses an adjustable back fence (fig. 1) comprising a adjustable horizontal member (58) attached to an indexing system (fig. 1) a plurality of adjustable connections (38, 40, 42), an indexing system (fig. 1) means for cutting (26). Examiner notes the guide track (4, 46), grooves (50, 52) and rail/horizontal member (58) serve as an indexing system for positioning a workpiece (24) as it relates to the back fence (22) and means for cutting (26).

With regard to claim 11 as best as can be understood, Jukoff discloses a bracket interlocking to a Jointech Clincher and in indexing means (fig. 1). Examiner understands a Jointech Clincher to be fence having a dovetail construction. Examiner also notes that Jukoff's

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fence (22) is attached to another fence (144) having dovetail opening (147; fig. 1) so as to mate with fence structure (158) via clamp (172, 174; fig. 2; col. 9, lines 8-23).

With regard to claim 12 as best as can be understood Jukoff discloses a horizontal member comprised of a horizontal plate (58) attached to an indexing system (fig. 1), a holding means (28) allowing a workpiece (24) to be processed in “either direction”, holding means (128) and an adjustment means (88, 188) to a tolerance of 1/32 inch. As to the adjustment means and tolerance of 1/32 inch, Examiner notes that the spring (88, 188) allows for the holding/positioning means to rotate such that an arcuate surface (fig. 1) contacts the workpiece (24); because the holding/position members (28, 128) rotates about a pivot, i.e., 0°- 180°, to allow movement and positioning of the workpiece (24) is inherent that an adjustment of 1/32 of inch (0.03125) can occur. Furthermore, the claim fails to positively recite what can be adjusted, i.e., adjustment means (means for adjusting) what relative to what?

With regard to claim 13 as best as can be understood, Jukoff discloses an indexing channel (50, 52) system (Fig. 1) a mating extrusion (64, 66), screws (67, 76), anchoring means for T extrusion, spacers and horizontal bar (fig. 8). Examiner notes the guide rail/horizontal member (58) to be a horizontal bar, the guide rail/horizontal bar (58) to include extending rods (64, 66) such that the rod (64, 66) and bar (58) form a T-extrusion, spacers (84) attached to the horizontal bar (58) for adjustability.

With regard to claim 15 as best as can be understood, Jukoff discloses an indexing channel extrusion (50, 52) an indexing block (44, 46), a guide attachment (68), an adjustable indexing component (70) an extruded forms means of adjustment and indexing. Examiner notes

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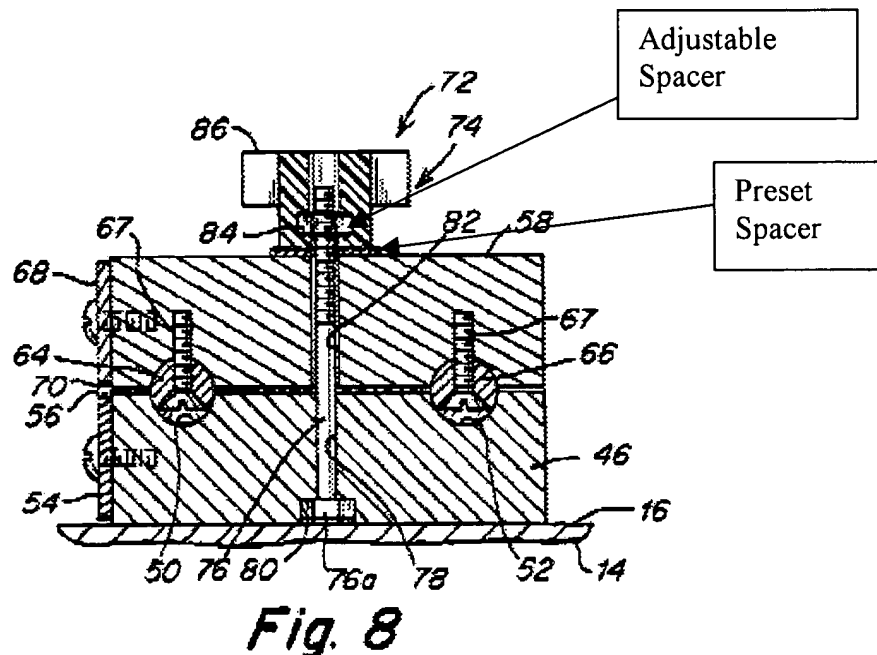
that the teeth (70) of the guide attachment (68) of the horizontal/guide (58) engage teeth (56) of the indexing track (44, 46) so as to position and adjust the horizontal/guide bar (58).

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claim 14 as best as can be understood is rejected under 35 U.S.C. 103(a) as being unpatentable over Jukoff et al. (6,619,347) in view of Duginske (5,617,909). Jukoff discloses spacers (fig. 8). Jukoff does not disclose a means for measurement. Duginske teaches in a similar art an adjustable fence (72) for use with a woodworking machine, i.e., table saw, router or shaper. Duginske teaches the use of a means for measuring (47, 49; fig. 1) affixed to the fence (72) for improved versatility and guidance (col. 6, lines 55-62). Because the references are from a similar art and deal with a similar problem (i.e., workpiece guidance relative to a cutter via a fence system) it would have been obvious at the time of the invention to one having ordinary skill in the art to provide Jukoff with means for measuring for improved versatility of the fence assembly as taught by Duginske.



As to the preset spacer, Examiner notes figure, 8, spacer between the screw (76) and nut/adjustable spacer (84) is preset in that it abuts the horizontal bar (58). As to the adjustable spacer, Examiner notes nut (84) is adjustable for positioning along the screw (76).

Conclusion


In response to this Office Action, Applicant is referred to chapter 714 of the Manual of Patent Examining Procedures (MPEP).

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Shelley Self whose telephone number is (571) 272-4524. The examiner can normally be reached Mon-Fri from 8:30am to 5:00pm. If attempts to reach the examiner by telephone are unsuccessful, the examiner's Supervisor, Derris Banks can be reached

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at (571) 272-4419. The fax phone numbers for the organization where this application or proceeding is assigned are (571) 273-8300 for regular and After Final communications.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on accessing the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

SSelf 
September 16, 2005